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SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			GOODCHILD, WILLIAM J	
			ART UNIT	PAPER NUMBER
			2433	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

Office Action Summary**Application No.**

10/736,634

Applicant(s)

ALBERTINE TRAPPENIERS ET AL

Examiner

WILLIAM GOODCHILD

Art Unit

2433

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-944)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

.In view of the pre-appeal request filed on 04/27/2011, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

/Vivek Srivastava/

Response to Arguments

1. Applicant's arguments, filed 04/27/2011, with respect to the rejection(s) of claim(s) 1-15 and 18-19 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9, 11, 13 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Computer readable medium is not defined within the specification.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9, 11, 13 and 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter.

The claim is drawn to a "computer readable medium". The specification is silent regarding the meaning of this term. Thus, applying the broadest reasonable interpretation in light of the specification and taking into account the meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the

art (MPEP 2111), the claim as a whole covers both transitory and non-transitory media. A transitory medium does not fall into any of the 4 categories of invention (process, machine, manufacture, or composition of matter).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 8-15 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kano et al., (US Patent No. 6,453,349), (hereinafter Kano), and further in view of Westfall et al., (International Publication No. WO 02/15462), (hereinafter Westfall).

Regarding claim 1, Kano discloses a method for communication between a terminal [Kano, figure 1, item 1] and service providing server or another terminal [Kano, figure 1, item 3] via an access system [Kano, figure 1, item 2] providing access to a network [Kano, figure 1, see connections between items 1, 2 and 3], wherein the terminal is coupled to a coupling-interface able to communicate with the access system by protocol couplings [Kano, see items 1, 2 and 3, it is inherent that a terminal, access system or service providing server that is connected to the network consists of a coupling interface

with protocol couplings and one of ordinary skill in the art would be aware of such couplings], said method comprising the steps of:

at said terminal [Kano, figure 1, item 1], generating a service-selection signal and transmitting said service selection signal from said terminal to a service selection server [Kano, column 1, lines 47-55];

at said service selection server, in dependence of a service definition signal, obtained by said service selection server, generating a configuration signal and transmitting said configuration signal [Kano, column 2, line 62 - column 3, line 3];

at said service selection server, generating a service information signal and transmitting said service information signal to said terminal and/or said coupling interface to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, wherein said service information signal defines a protocol coupling to be used [Kano, column 10, lines 1-11 and column 1, lines 47-55];
and

at said terminal and/or said coupling interface, communicating with said service providing server or said other terminal via the protocol coupling defined by at least one service parameter, wherein said communicating comprises an exchange of signals that comprise said at least one service parameter [Kano, column 18, lines 3-7 and column 8, lines 32-39].

Kano does not specifically disclose transmitting said configuration signal to said access system for configuring at least parts of said access system and at least parts of said protocol couplings.

However, Westfall, in the same field of endeavor discloses a computer user choosing a template for creating an instance of the desired service [Westfall, page 15, lines 21-28], Westfall further teaches modifies policies in the network by altering packet classification rules as required to implement the desired services [Westfall, page 15, lines 29-30].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the selection of a service of Kano and incorporate the templates of Westfall to modify the policies in order to provide the type of service and the quality of service requested by the user.

Regarding claim 2, Kano-Westfall further discloses at said service-selection-server, in dependence of said service-selection-signal [Kano, column 1, lines 10-14 and lines 47-55], generating said service-definition-signal [Kano, column 1, lines 50-61 and column 5, lines 32-38].

Regarding claim 3, Kano-Westfall further discloses at said service-selection-server, receiving said service-definition-signal from said service-providing-server or said other terminal defined by said service-selection-signal [Kano, column 1, lines 48-61].

Regarding claim 8, Kano-Westfall further discloses an access processor-system [Kano, figure 1, item 2] that controls an access transceiver that transmits and receives signals [It is inherent that a device on a network that is communicating on the network consists of a transceiver], wherein in that said access processor-system comprises: (a) a receiving processor-system-part that receives a configuration-signal from a service-selection-server [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], and (b) a configuring processor-system-part that, in dependence of said configuration-signal, obtained by said service-selection server, configures at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30], and (c) a generating/forwarding processor-system part for generating/forwarding a service-information-signal and transmitting said service-information-signal to said terminal and/or said coupling interface to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, wherein said service-information-signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 9, Kano-Westfall further discloses (a) receiving a configuration-signal from a service-selection-server [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], and (b) in dependence of said configuration-signal, obtained by said service-selection-

server configuring at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30], and (c) generating/forwarding a service-information-signal and transmitting said service- information-signal to said terminal and/or said coupling-interface to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, which service-information signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 10, Kano-Westfall further discloses (a) a receiving processor-system-part that receives a service-selection-signal from said terminal [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], (b) a configuring processor-system-part that, in dependence of a service- definition-signal, obtained by said service-selection-server, generates a configuration- signal and transmits said configuration-signal to said access system for configuring at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30], and (c) a generating processor-system-part that generates a service-information-signal and transmits said service-information-signal to said terminal and/or said coupling- interface to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, wherein said service-information-signal defines a protocol coupling

to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 11, Kano-Westfall further discloses (a) receiving a service-selection-signal from said terminal [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], (b) in dependence of a service-definition-signal, obtained by said service-selection-server, generating a configuration-signal and transmitting said configuration-signal to said access system for configuring at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30, and (c) generating a service-information-signal and transmitting said service-information-signal to said terminal and/or said coupling-interface to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, wherein the service-information-signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 12, Kano-Westfall further discloses (a) a selecting processor-system-part that generates a service-selection-signal and transmits said service-selection-signal from said terminal to said service-selection-server, the service-selection-server, in dependence of a service-definition-signal, obtained by said service-selection-server [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10,

lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], generating a configuration-signal to said access system for configuring at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30], (c) a receiving processor-system-part that receives a service-information-signal from said service-selection-server, to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, wherein said service-information-signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], and (d) a communicating processor-system-part that communicates with said service-providing-server or said another terminal via the protocol coupling defined by at least one service parameter, wherein said communicating comprises an exchange of signals that comprise at least one service parameter [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 13, Kano-Westfall further discloses (a) generating a service-selection-signal and transmitting said service-selection-signal from said terminal to a service-selection-server, the service-selection-server, in dependence of a service-definition-signal [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], obtained by said service-selection-server, generating a configuration-signal and transmitting said configuration-signal to said access system for configuring at least parts of said access

system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30], (c) receiving a service-information-signal from said service-selection-server to inform about the configurations made in at least parts of the access system and in at least parts of the protocol couplings, wherein said service-information-signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], and (d) communicating with said service-providing-server or said other terminal via the protocol coupling defined by at least one service parameter, wherein said communicating comprises an exchange of signals that comprise said at least one service parameter [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 14, Kano-Westfall further discloses (a) a transceiving processor-system-part that receives a service-selection-signal from said terminal and transmitting said service-selection-signal to a service-selection-server, the service-selection-server, in dependence of a service-definition-signal, obtained by said service-selection-server [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], generating a configuration signal and transmitting said configuration-signal to said access system for configuring at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-39], (c) a receiving processor-system-part that receives a service-information-signal from said service-selection-server to inform about the configurations

made in at least parts of the access system and in at least parts of the protocol couplings, which service-information-signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], and (d) a communicating processor-system-part that communicates with said service- providing-server or said another terminal via the protocol coupling defined by at least one service parameter, wherein said communicating comprises an exchange of signals that comprise at least one service parameter [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 15, Kano-Westfall further discloses (a) receiving a service-selection-signal from said terminal and transmitting said service- selection-signal to a service-selection-server, the service-selection-server, in dependence of a service-definition-signal [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], obtained by said service-selection-server, generating a configuration- signal and transmitting said configuration-signal to said access system for configuring at least parts of said access system and at least parts of said protocol couplings [Westfall, page 15, lines 21-30], (c) receiving a service-information-signal from said service-selection-server to inform about the configuration made in at least parts of the access system and in at least parts of the protocol couplings, wherein said service-information-signal defines a protocol coupling to be used [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3,

column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], and (d) communicating with said service-providing-server or said other terminal via the protocol coupling defined by at least one service parameter, wherein said communicating comprises an exchange of signals that comprise at least one service parameter [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 18, Kano-Westfall further discloses wherein the service-selection-signal indicates one of a video-on-demand service, an audio/video call, and a voice-over-internet-protocol call [Kano, column 2, lines 51-55].

Regarding claim 19, Kano-Westfall further discloses wherein the service-definition-signal comprises the at least one service parameter indicating at least one of a bandwidth and a priority which are used to communicate between the terminal and one of the service-providing-server and the other terminal [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kano-Westfall further as applied to claim 1 above, and further in view of Grooters, (US Patent No. 6,684,399).

Regarding claim 4, Kano-Westfall does not specifically disclose wherein said coupling-interface is coupled to a permanent channel, with said step (d) comprising the steps of (d1) at said terminal and/or said coupling-interface, in dependence of said service-information-signal, configuring at least parts of said terminal and/or of said coupling interface, and of (d2) at said terminal and/or said coupling- interface, setting up a virtual connection from said coupling-interface to said access system, and of (d3) at said access system, setting up a virtual connection from said access system to said service-providing-server or said other terminal, and with said service parameter being supplied to said terminal and/or said coupling-interface via said service-information-signal.

However, Grooters teaches a permanent channel [Grooters, column 7, lines 30-33] and setting up a temporary virtual channel [Grooters, column 7, lines 50-54].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include permanent channels when there is a permanent signal and virtual temporary channels for signals that are more of a temporary nature in order to provide the bandwidth on an as needed bases.

Regarding claim 5, Kano-Westfall-Grooters further discloses wherein said coupling-interface is not coupled to said access system via a permanent channel [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], with said step (a) comprising the steps of(al) at said terminal and/or said coupling-interface, in dependence of said service-

selection-signal, setting up a virtual connection from said coupling-interface to said service-selection-server and of (a2) at said terminal and/or said coupling-interface [Grooters, column 7, lines 50-54], in dependence of said service-selection-signal [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9], configuring at least parts of said terminal and/or said coupling-interface, and with said step (d) comprising the step of (d3) at said access system, setting up a virtual connection from said access system to said service-providing-server or said other terminal [Grooters, column 7, lines 50-54], and with said service parameter being prestored in said terminal and/or said coupling-interface [Kano, column 1, lines 10-14, 47-55, column 2, line 62 – column 3, line 3, column 10, lines 1-11, column 8, lines 32-39 and column 18, lines 3-9].

Regarding claim 6, Kano-Westfall-Grooters further discloses wherein said step (d) comprises the step of (d4) at said terminal and/or said coupling-interface, in dependence of said service-information-signal, re-configuring at least parts of said terminal and/or of said coupling-interface [Kano, column 1, lines 47-61 and column 5, lines 57-67].

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kano-Westfall further as applied to claim 1 above, and further in view of Jones, (US Publication No. 2002/0176547).

Regarding claim 7, Kano-Westfall does not specifically disclose said method comprises the step of (e) at said access system (4), billing packet-signals (to be) exchanged (109) between said terminal (1) and/or of said coupling-interface (2) on the one hand and said service-providing-server (6) or said other terminal on the other hand.

However, Jones discloses the use of a usage based packet billing system [Jones, paragraph 32, lines 12-21].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Jones to include the use of providing a usage based packet billing system in order to bill for packets.

Conclusion

Examiner's Note: Examiner has cited particular paragraphs / columns and line numbers in the reference(s) applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the cited passages as taught by the prior art or relied upon by the examiner.

Should applicant amend the claims of the claimed invention, it is respectfully requested that applicant clearly indicate the portion(s) of applicant's specification that support the amended claim language for ascertaining the metes and bounds of applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM GOODCHILD whose telephone number is (571)270-1589. The examiner can normally be reached on Monday - Friday / 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WJG

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2433